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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,225	05/09/2001	Mitsuru Akaike	M1596-226	4231

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT PAPER NUMBER

3632

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/852,225

Applicant(s)

AKAIKE, MITSURU

Examiner

Naschica S Morrison

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 25 March 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the second Office Action for serial number 09/852,225, Stopper Device and Telescopic Unit, filed on May 9, 2001. Claims 1-12 are pending.

Claim Objections

Claim 11 is objected to because of the following informalities: on line 3, "portion" should be --portions--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "said second diameter of said second stopper supporting member" in line 26. There is insufficient antecedent basis for this limitation in the claim. It appears the claim should read, "said second diameter of said stopper supporting member".

Claim 12 recites the limitation "said second diameter of said second stopper supporting member" in line 3. There is insufficient antecedent basis for this limitation in the claim. It appears the claim should read, "said second diameter of said stopper supporting member".

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art of Figs. 5, 6, and 11 (APA) in view of U.S. Patent 2,282,295 to Olson. With regards to claims 1-7 and 9-11, APA discloses all of the limitations of the claims except the stoppers (2) each having a first diameter at the first end being greater than a second diameter of the second end (i.e. tapered) and the first and second ends of abutting stoppers having substantially the same outer dimensions to form a continuously tapered shape. Olson teaches a tripod leg assembly including a stopper (36) having a tapered shape with a diameter gradually increasing from the second end (adjacent 40) to the first end (adjacent 37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the stoppers (2) to taper from top to bottom as an alternative design as disclosed by Olson and since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Allowable Subject Matter

Claim 8 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claim 12 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: although the prior art of record discloses many of the limitations of the claims, it fails to further teach or suggest the first diameter of the first end of the second stopper supporting member being substantially the same diameter as the second diameter of the stopper supporting member.

Response to Arguments

Applicant's arguments filed 3/25/03 have been fully considered but they are not persuasive. Applicant argues that the tapered shape of Olson is necessary to impart a clamping action and references page 3, left hand column, lines 35-42 of Olson to support this argument. While Applicant's statements regarding the tapered shape and clamping action are consistent with the teachings of Olson, the rejection applied above does not rely on the tapered shape of member 80. The rejection relies on the tapered shape of the stoppers 36.

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

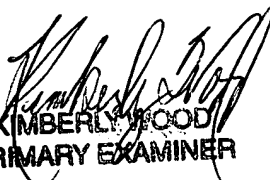
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendments).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
6/6/03


KIMBERLY WOOD
PRIMARY EXAMINER